

**UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant or Patentee: Gerald P. Sullivan

Serial No. or Patent No. 09/624,732

Filed or Issued: July 25, 2000

Art Unit: 2165

Supervisory Examiner: Vincent Millin

Title: **APPARATUS AND METHOD FOR CREATING AND MANAGING A  
FINANCIAL INSTRUMENT**

Assistant Commissioner for Patents  
Washington, D.C. 20231

March 14, 2001

Attention: Director John J. Love, Technology Center 2100 (M.P.E.P. § 1002.02(c)).

**PETITION TO MAKE SPECIAL FOR NEW APPLICATION  
UNDER M.P.E.P. § 708.02, VIII**

**1. Petition**

Applicant hereby petitions to make special this new application, which has not received any examination by an Examiner.

**2. Claims**

All the claims in this application are directed to a single invention.

**3. Search**

A search has been made by NERAC, a professional search firm, employing their patent and technical literature databases. The search argument that was used in this search is attached hereto as an Appendix A.

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#### 4. Copy of references

There is submitted herewith a copy of each of the references deemed most closely related to the subject matter encompassed by the claims. Also attached are Forms PTO/SB/08A and 08B (formerly Form PTO-1449).

#### 5. Detailed discussion of the references

In the following, there is submitted a detailed discussion of the references, which discussion particularly points out how the claimed subject matter is distinguishable over the references.

The most pertinent references identified in our search are the following publications:

1) U.S. Patent No. 5,819,238, entitled "Apparatus and Accompanying Methods for Automatically Modifying a Financial Portfolio Through Dynamic Re-weighting Based on a Non-constant Function of Current Capitalization Weights".

Apparatus and methods are described for automatically modifying a financial portfolio having a pre-defined universe of securities, such as, e.g. an index fund, that tracks a given capitalization weighted index, through dynamic re-weighting of a position held in each such security. Specifically, in a computer system (50, 60), a target weight is accorded to each such security, relative to others in the portfolio, in proportion to a non-constant function of current capitalization weights of the securities in the index. Once these target weights are determined, then, in response to both the target weight of each such security and an actual weight, as a proportion of the portfolio, in which that security is currently held, a trade will be generated by the system in order to conform, within a predefined band, the actual weight to the target weight so as to rebalance the holdings in the portfolio. A copy of this patent is enclosed.

2) U.S. Patent No. 5,193,056, entitled "Data Processing System for Hub and Spoke Financial Services Configuration".

A data processing system is provided for monitoring and recording the information flow and data, and making all calculations, necessary for maintaining a partnership portfolio and partner fund (Hub and Spoke) financial services configuration. In particular, the data processing system makes a daily allocation of assets of two or more funds (Spokes) that are invested in a portfolio (Hub). The data processing system determines the percentage share (allocation ratio) that each fund has in the portfolio, while taking into consideration daily changes both in the value of the portfolio's investment securities and in the amount of each fund's assets. A copy of the Abstract and claim 1 of this patent are enclosed.

3) U.S. Patent No. 5,999,917, entitled "Automated System for Managing a Non-qualified Deferred Compensation Plan".

An automated system is described for managing the assets and liabilities of interfaces with fund managers and insurance and annuity carriers via modem links and with plan sponsors and participants via modem, fax or automated voice response units. The system calculates the value of the liabilities of the plan, the value of the assets of the plan and produces a report comparing the status of each on a daily basis. The system reviews the balance and levels that the sponsor has provided and determines whether changes in asset allocation are required. A copy of the Abstract and claim 1 of this patent are enclosed.

The following patents, which relate generally to the computer management of financial instruments in general are deemed to be of significantly less interest than those patents listed above:

4) U.S. Patent No. 6,085,174, entitled "Computer Assisted and/or Implemented Process and Architecture for Administering an Investment and/or Retirement Program.

5) U.S. Patent No. 6,064,986, entitled "Computer Assisted and/or Implemented Process and Architecture for Customer Account Creation, Maintenance and Administration for an Investment and/or Retirement Program".

6) U.S. Patent No. 6,049,772, entitled "System for Managing Hedged Investments for life Insurance Companies".

7) U.S. Patent No. 5,926,792, entitled "System for Managing a Stable Value Protected Investment Plan".

8) U.S. Patent No. 5,913,198, entitled "System and Method for Designing and Administering Survivor Benefit Plans."

9) U.S. Patent No. 5,911,135, entitled "System for Managing Financial Accounts by a Priority Allocation of Funds Among Accounts".

10) U.S. Patent No. 5,907,828, entitled "System and Method for Implementing and Administering Lender-owned Credit Life Insurance Policies".

11) U.S. Patent No. 5,875,437, entitled "System for the Operation and Management of One or More Financial Accounts Through the Use of a Digital Communication and Computation System for Exchange, Investment and Borrowing".

12) U.S. Patent No. 5,864,685, entitled "Increasing Income Trust Computer Transaction System and Insured Investment Account System".

13) U.S. Patent No. 5,852,811, entitled "Method for Managing Financial Accounts by a Preferred Allocation of Funds Among Accounts".

14) U.S. Patent No. 5,812,987, entitled "Investment Fund Management Method and System with Dynamic Risk Adjusted Allocation of Assets."

15) U.S. Patent No. 5,745,706, entitled "Computer System and Related Equipment for Spending and Investment Account Management."

16) U.S. Patent No. 5,689,650, entitled "Community Reinvestment Act Network".

17) U.S. Patent No. 5,644,727, entitled "System for the Operation and Management of One or More Financial Accounts Through the Use of a Digital Communication and Computation System for Exchange, Investment and Borrowing."

18) U.S. Patent No. 5,592,379, entitled "Method and Apparatus for Pooling and Distributing Bond Dividends".

19) U.S. Patent No. 5,101,353, entitled "Automated System for Providing Liquidity to Securities Markets".

20) U.S. Patent No. 4,933,842, entitled "Automated Investment Fund Accounting System".

21) International Publication No. WO 075836, entitled "Portfolio Accounting and Risk Management System".

22) International Publication No. WO 073923, entitled "Unit Investment Trust Global Data Processor".

23) International Publication No. WO 058900, entitled "Portfolio Investment Guideline Compliance and Financial Fund Administration System".

24) International Publication No. WO 034911, entitled "System for Modeling, Measuring, Managing, and Depicting the Effects of Business Decisions on Market Value".

A copy of the abstract and/or a sample claim of each of the above listed patents is enclosed.

The following publications are deemed to be of a significantly lesser significance than the patents 1) - 3) noted above and are listed only by article title and name of journal:

25) Title: "Bots' Will Make Banks Rethink Their Practices", Journal: American Banker.

26) Title: "NEC Reforms Emphasize Net, Independence for Divisions", Journal: Nikkei Weekly.

27) Title: "What's Next---A Patent for The 401(k)?", Journal: Business Week.

28) Title: "Investment Platform Shrinks Pension Plan Paperwork, Expense", Journal: Corporate Cashflow.

29) Title: "Real-time Pricing Yields Timelier Trust Services", Journal: Wall Street Computer Review.

30) Title: "Not-for-profit Fund Accounting System Executive Data Systems, Inc. (Software Review)", Journal: Computers in Human Services.

31) Title: "Managing Constructions Funds and Investments with a Computer Model (Medical ADP)", Journal: Hospital Financial Management.

32) Title: "Construction of Computer-Aided System of Account of Operation in Stock Market With Use of Network Processes", Journal: Grey Literature in Europe: SGL.

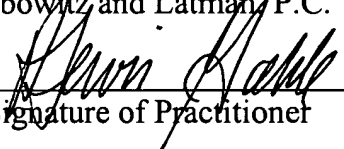
A copy of the abstract of each of the above listed publications is enclosed.

## 6. Claims are Distinguished

Claim 1 and claims 2 - 29 dependent thereon particularly distinguish each of the above listed references by the recitation of the manner of assigning each security of a portfolio into one of a plurality of industry groups, and summing the data elements for each such group to provide a total for the particular industry group.

## 7. Fee

Please charge the fee of \$130.00 required by 37 C.F.R. 1.17(i) to the Deposit Account Number 03-3415 in the name of Cowan, Liebowitz and Latman P.C.

  
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PROFILE# 1058883 Contact# 078895.00 GAP Date: 03-02-2001 For: GAP (03-14-01)

Profile Title: TOPICS FOR MR. GABLE

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Topic Title: MANAGING AN INDEX MUTUAL FUND VIA COMPUTER LITERATURE

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